

## UNITED STATES DISTRICT COURT

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OCT 23 2018

for the  
Western District of Washington

In the Matter of the Search of

(Briefly describe the property to be searched  
or identify the person by name and address)

Facebook account, ID number 100002599842950

Case No.

MJ18-489

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:  
Facebook account ID number 100002599842950, as further described in Attachment A, attached hereto and incorporated herein by reference

located in the Northern District of California, there is now concealed *(identify the person or describe the property to be seized)*:  
See Attachment B, attached hereto and incorporated herein by reference

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☒ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

<i>Code Section</i>	<i>Offense Description</i>
Title 21, United States Code, Sections 841 and 846	Drug trafficking and conspiracy

The application is based on these facts:  
See attached affidavit of DEA SA Geoffrey Provenziale, attached hereto and incorporated by reference herein

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

GEOFFREY PROVENZALE

*Applicant's signature*

Special Agent, Drug Enforcement Administration

*Printed name and title*

Sworn to before me and signed in my presence.

Date:

Oct 23, 2018

*Judge's signature*

City and state: Seattle, Washington

Mary Alice Theiler, United States Magistrate Judge

*Printed name and title*

I, Geoffrey Provenzale, a Special Agent with the Drug Enforcement Administration, having been duly sworn, state as follows:

## I. INTRODUCTION AND AGENT BACKGROUND

1. I am employed as a Special Agent (SA) with the United States Drug Enforcement Administration (DEA), and have been so employed since April 2015. I am currently assigned to the Seattle Field Division. In this capacity, I investigate violations of the Controlled Substance Act, Title 21, United States Code, Section 801 et seq., and related offenses. I have received specialized training in the enforcement and investigation of the Controlled Substance Act. I have received over 620 hours of classroom training including but not limited to, drug identification, drug interdiction, detection, money laundering techniques and schemes, smuggling, and the investigation of individuals and/or organizations involved in the illegal possession, possession for sale, sales, importation, smuggling, cultivation, manufacturing and illicit trafficking of controlled substances.

2. In my role as a Special Agent for the Drug Enforcement Administration, I have negotiated for and purchased narcotics acting in an undercover capacity. I have participated in narcotics investigations (i.e. heroin, fentanyl, cocaine, marijuana, and methamphetamine) which have resulted in the arrest of individuals and the seizure of illicit narcotics and/or narcotic-related evidence and the forfeiture of narcotics related assets. I have been involved in the service of search warrants as part of these investigations. As a result of my experience in serving these search warrants, I have encountered and have become familiar with various tools, methods, trends, paraphernalia and related articles utilized by various traffickers in their efforts to import,

1 conceal, and distribute controlled substances. I am also familiar with the various  
2 methods of packaging, delivering, transferring, and laundering drug proceeds.  
3 Additionally, through my training and experience, I can identify illegal drugs by sight,  
4 odor, and texture.

5 3. I have written affidavits in support of court authorized federal warrants and  
6 orders in the Western District of Washington for TIII interceptions, GPS tracking of  
7 telephones, search warrants, and tracking of vehicles. Additionally, I have testified in  
8 grand jury proceedings, written investigative reports, and conducted and participated in  
9 numerous interviews of drug traffickers, of various roles within drug organizations,  
10 which has provided me with a greater understanding of the methods by which Mexico  
11 based drug trafficking organizations operate.

## 12 II. PURPOSE OF AFFIDAVIT

### 13 Search Warrant for Facebook Account

14 4. I am investigating drug trafficking and related offenses, including  
15 violations of Title 21, United States Code, Sections 841 and 846. This affidavit is made  
16 in support of an application for a search warrant for information associated with the  
17 following Facebook user name and ID number:

18 a. "Azaeel Medina," with the Facebook ID number 100002599842950,  
19 and URL: <https://www.facebook.com/jesusoctavio.rodriguezpayan1>

20 (hereinafter, "**the target Facebook account**"), that is stored at a premises owned,  
21 maintained, controlled, or operated by Facebook, a social networking company  
22 headquartered in Menlo Park, California. The information to be searched and seized is  
23 described in the following paragraphs and in Attachment A, attached hereto and  
24 incorporated herein. This affidavit is made in support of an application for a search  
25 warrant under Title 18, United States Code, Sections 2703(a), 2703(b)(1)(A) and  
26 2703(c)(1)(A) to require Facebook to disclose to the government records and other  
27 information in its possession, more thoroughly described in Attachment B, attached

hereto and incorporated herein, pertaining to the subscriber or customer associated with the Facebook account. As set forth below, there is probable cause to believe that the information sought would provide evidence of violations of Title 21, United States Code, Sections 841 and 846, as well as contraband or fruits of crime, property designed or intended for use in crime, and the location of a person to be arrested.

5. Because this affidavit is being submitted for the limited purpose of obtaining a search warrant for the Facebook account referenced above, I have not included every fact known to me concerning this investigation. Rather, I have set forth only the facts that I believe are necessary for a fair determination of probable cause and to show that there is probable cause to issue the requested warrant.

### III. SOURCES OF INFORMATION

6. I have obtained the facts set forth in this affidavit through my personal participation in the investigation described below; from oral and written reports of other law enforcement officers; and from records, documents and other evidence obtained during this investigation. I have obtained and read official reports prepared by law enforcement officers participating in this investigation and in other investigations by the DEA. When I refer to registration records for vehicles, I am relying on records obtained from the Washington State Department of Licensing (DOL). Insofar as I have included event times in this affidavit, those event times are approximate.

### IV. SUMMARY OF PROBABLE CAUSE

#### The 2017 T-III Investigation into Jesus RODRIGUEZ-PAYAN

7. During 2017, the DEA investigated a drug trafficking organization (DTO) that was operating in the Western District of Washington, which distributed narcotics, including heroin and crystal methamphetamine. Investigators believe Francisco Ruelas-Payan and Jesus RODRIGUEZ-PAYAN (a/k/a "Tavito Rodriguez") were leaders/members of the aforementioned DTO. Both have been indicted in this District as a result of this investigation for conspiracy to distribute controlled substances. Ruelas-

1 Payan was charged in case number CR17-229JLR, arrested on September 26, 2017, and  
2 later pled guilty to Conspiracy to Distribute Controlled Substances, Conspiracy to  
3 Commit Money Laundering, and Illegal Alien in Possession of a Firearm. Ruelas-Payan  
4 was sentenced to 180 months in federal prison and 5 years supervised release.  
5 RODRIGUEZ-PAYAN was indicted in case number CR17-233RAJ, is currently a  
6 federal fugitive and is believed to have travelled to Mexico prior to Ruelas-Payan's  
7 arrest.

8 8. Prior to Ruelas-Payan's arrest, on May 11, 2017, United States District  
9 Judge James L. Robart, Western District of Washington, signed an order authorizing the  
10 interception of the wire communications to and from (425) 595-8394 (TT6), which was  
11 utilized by Ruelas-Payan. On May 19, 2017, United States District Judge Richard A.  
12 Jones, Western District of Washington, signed an order authorizing the interception of the  
13 electronic communications to and from TT6. The interception, for both wire and  
14 electronic communications of TT6, was terminated on June 9, 2017. On June 13, 2017,  
15 Judge Jones signed an order authorizing the continued wire interception of TT6, in  
16 addition to four other phones we believe were being utilized by the DTO. Two of the  
17 additional phones (425-268-9252-TT8 and 360-660-0971-TT13) were utilized by  
18 RODRIGUEZ-PAYAN. The wire authorization for the phones expired on July 12, 2017.

19 9. On September 26, 2017, DEA conducted a multi-agency "take down" of  
20 this investigation. Ruelas-Payan was arrested with a firearm and charged in this  
21 investigation as stated above. To date, this investigation has yielded 23 individuals being  
22 federally indicted, 17 arrests, and the seizure of over 40 pounds of heroin, 10 pounds of  
23 methamphetamine, 24 firearms, two vehicles, and approximately \$260,777. All  
24 seventeen arrested defendants have pled guilty to numerous federal narcotics and/or  
25 weapon violations. RODRIGUEZ-PAYAN's whereabouts could not be confirmed prior  
26 to the DEA "takedown." As a result, he was declared a fugitive and, based on subsequent  
27 intelligence obtained, he is believed to be in Mexico.

10. During the course of this investigation, I have observed RODRIGUEZ-PAYAN multiple times on surveillance. During November 2016, RODRIGUEZ-PAYAN arranged (over telephone) a controlled purchase of cocaine with a DEA confidential source (CS1)<sup>1</sup>. DEA has also intercepted RODRIGUEZ-PAYAN over TT6, TT8, and TT13 discussing various narcotics transactions.

11. For example, on May 24, 2017, TT8 was called by TT6. This call was translated from Spanish to English by a Spanish-speaking contractor working for the DEA as a TIII monitor. During the call, Ruelas-Payan inquired, "And what price would you sell me a piece of water for?" RODRIGUEZ-PAYAN stated, "I have no idea for that shit." RODRIGUEZ-PAYAN then continued, "for that shit, I have no idea. Take it all!" Ruelas-Payan then stated, "I wouldn't be able to take it out, it's slow!" RODRIGUEZ-PAYAN then stated, "Tell me how much" and continued, "I'll have to measure it, I have no idea, I will let you know." Ruelas-Payan then stated, "Honestly, I the, the, the, half I get it at one thousand eight hundred." RODRIGUEZ-PAYAN stated later that he would inquire with a friend about the price and let Ruelas-Payan know the cost. Based on my training and experience, "water" is a common slang term narcotics trafficker's use for crystal methamphetamine. I believe this entire conversation was referencing a methamphetamine transaction.

12. We verified the individual we were intercepting was in fact RODRIGUEZ-PAYAN by having a CS – whom I will refer to CS2 -- who knew RODRIGUEZ-PAYAN place a recorded phone call to TT8 (prior to the wire

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<sup>1</sup> During this controlled purchase, RODRIGUEZ-PAYAN sent Ruelas-Payan to deliver the cocaine to CS1. CS1 is a paid DEA informant. An NCIC check revealed CS1 had an arrest history including DUI from more than 15 years ago; an illegal entry/false document charge from more than 10 years ago, and a conviction for misdemeanor harassment/domestic violence, also from more than 10 years ago. DEA Seattle Agents and SPD Detectives have used CS1 to make controlled purchases of narcotics and arrange for other narcotics related activity, to include the shipment of drugs and/or money in the past. Assistance provided by CS1 has led to the acquisition of search warrants and led to the seizure of narcotics and U.S. Currency.



1 authorization) and confirm the male he/she spoke to was who he/she knew to be  
2 RODRIGUEZ-PAYAN.<sup>2</sup> I later had a wire communications monitor, who is fluent in  
3 Spanish, listen to the recorded call over TT8 with CS2, and compare to the interceptions  
4 of TT8 while it was in communication with TT6. The monitor stated that they believed  
5 the male utilizing TT8 was the same individual during both calls. The monitors also  
6 confirmed the user of TT8 and TT13 was the same individual. In addition, during this  
7 investigation, multiple phones were seized from various co-conspirators of  
8 RODRIGUEZ-PAYAN. TT8 was listed as a contact number in one of these phones as  
9 "2017 Tavito NEW," RODRIGUEZ-PAYAN's known nickname is "Tavito" as stated  
10 above. TT13 was listed as a contact number in one of these phones as "Rodriguz,"  
11 RODRIGUEZ-PAYAN's shortened surname.

12 13. I also believe that RODRIGUEZ-PAYAN lived in and operated a "stash  
13 house" while in Western Washington. During this investigation, we had a GPS location  
14 tracking authorization for TT8, which "pinged" in the area of 6003 St. Albion Way,  
15 Mountlake Terrace, Washington, overnight most nights that TT8 was in the Western  
16 District of Washington during the tracking period. RODRIGUEZ-PAYAN is believed to  
17 have departed the Western District of Washington for Mexico on or about August 5,  
18 2017. After that date, vehicles used by members of the DTO continued to travel to  
19 RODRIGUEZ-PAYAN's former apartment complex.

20  
21 <sup>2</sup> CS2 was previously a Seattle Police Department (SPD) Confidential Source who (at the time)  
22 was providing information for sentencing considerations on a state drug offense. He/she has  
23 since been deactivated and is currently in state prison. An NCIC check revealed CS2 has  
24 multiple felony and misdemeanor convictions, which include felony convictions for controlled-  
25 substance violations and firearms violations (including possession of a stolen firearm) from  
26 before 2010. CS2 also has misdemeanor convictions for assault and a domestic-violence court-  
27 order violation from before 2005. Finally, CS2 has misdemeanor convictions for driving  
28 violations, including for driving under the influence, and associated violations from before 2007.  
CS2 also has had driver's license status violations from before 2010. CS2 was arrested for a  
drug violation, after being signed up as a SPD confidential source, and was deactivated. He/she  
continued to act as a Source of Information for SPD, providing information on a voluntary basis  
only, before being sent to state prison.

AFFIDAVIT OF SA PROVENZALE - 6  
FACEBOOK/USAO#2018R01221

UNITED STATES ATTORNEY  
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14. On September 26, 2017, during "takedown" operations, DEA executed a search warrant at 6003 St. Albion Way, Apartment H206, Mountlake Terrace, Washington. During a search of the residence, investigators located approximately 10 pounds of heroin. Jose De La Cruz-Rodriguez, who had been observed with RODRIGUEZ-PAYAN during the investigation, was present at the location and arrested. During a post arrest interview, De La Cruz-Rodriguez stated, in summary that he had been living at the apartment for approximately four months. De La Cruz-Rodriguez was shown a picture of RODRIGUEZ-PAYAN and Carlos Sepulveda-Ayala<sup>3</sup> and he confirmed he had been living with both of them at the apartment. De La Cruz-Rodriguez stated RODRIGUEZ-PAYAN and Sepulveda-Ayala were currently in Mexico visiting family but the narcotics seized had been sent by the DTO and he (De La Cruz-Rodriguez) had been directed to pick them up by Sepulveda-Ayala.

15. I believe RODRIGUEZ-PAYAN has continued to send narcotics to Western Washington from Mexico since the DEA "takedown." During May 2018, we arrested an individual previously observed with RODRIGUEZ-PAYAN while RODRIGUEZ-PAYAN was still in Western Washington. This individual was in possession of multiple pounds of heroin and crystal methamphetamine during his/her arrest. This individual has since cooperated with investigators while in custody (the cooperating defendant or CD1)<sup>4</sup>.

16. CD1 has stated to investigators that some of the narcotics seized during his/her arrest (during May 2018) were sent by RODRIGUEZ-PAYAN from Mexico.

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<sup>3</sup> Sepulveda-Ayala is also a federal fugitive in this investigation. Prior to departure for Mexico, Sepulveda-Ayala was also living at the "stash house" with both De La Cruz-Rodriguez and RODRIGUEZ-PAYAN.

<sup>4</sup> CD1 is currently charged with possession of controlled substances with intent to distribute and is providing information in the hope of receiving consideration on said charges. An NCIC check for CD1 revealed that CD1 has a criminal history that includes a conviction from before 2002 for a state narcotics manufacture/delivery/possession charge and alien inadmissibility from before 2010.



1 CD1 identified RODRIGUEZ-PAYAN from a photograph provided by  
2 investigators. CD1 stated that RODRIGUEZ-PAYAN used to sell him/her  
3 approximately 1 kilogram of heroin about once a month for about "6-8 months." CD1  
4 continued that this took place prior to RODRIGUEZ-PAYAN departing for Mexico  
5 during summer 2017. CD1 also stated that after RODRIGUEZ-PAYAN went to Mexico,  
6 RODRIGUEZ-PAYAN would "send me people." CD1 clarified that RODRIGUEZ-  
7 PAYAN would tell CD1 that someone was "coming up" to the Washington area with  
8 narcotics and CD1 would go and pick the narcotics up. CD1 stated he/she paid  
9 approximately \$28,000 per kilogram of heroin. CD1 later stated that he/she purchased  
10 methamphetamine for \$3,000 per pound. Based on CD1's information, as well as my  
11 knowledge of narcotics trafficking, I believe RODRIGUEZ-PAYAN is still involved in  
12 narcotics trafficking and a search warrant executed on **the target email account** will lead  
13 to evidence of additional co-conspirators in Western Washington and elsewhere in  
14 addition to helping investigators locate RODRIGUEZ-PAYAN in Mexico.

15 **Information regarding the target Facebook account**

16 17. During this investigation, many of the targets were found to have Facebook  
17 accounts. We located a Facebook page for "Fran Ruelas-Payan" which was believed to  
18 be utilized by Ruelas-Payan as several photos on the page were of the individual we  
19 know as Ruelas-Payan. There also were several videos posted on the page of Ruelas-  
20 Payan and co-conspirators filming the road while travelling long distances in what  
21 appears to be a Nissan Sentra Ruelas-Payan drove during this investigation. Some of  
22 these trips have been corroborated by investigators, via comparison to electronic tracking  
23 devices utilized on Ruelas-Payan's phone and vehicles; to be on the way to suspected  
24 narcotics transactions. During one of the videos, Ruelas-Payan points out a red pick-up  
25 truck and shouts out his window in Spanish "good-bye pig!" Based on my training and  
26 experience I know the term "pig" is a derogatory term for a police officer.

1 18. One of my co-workers drove a red pickup truck during this investigation.  
2 While the aforementioned truck in the video was not my co-worker's, it looks similar in  
3 appearance to one my co-worker drove. The aforementioned video demonstrates that  
4 Ruelas-Payan was aware, at the time, that law enforcement may have been watching  
5 him. Despite all the information displayed on the profile page, no illegal activity is  
6 displayed on the videos. This is an example of content that was displayed for public  
7 viewing on Ruelas-Payan's Facebook page. I was not able to view private content  
8 associated with Ruelas-Payan's Facebook page as I am not "friends" with him on  
9 Facebook.

10 19. While I cite the above example as it relates to Ruelas-Payan,  
11 RODRIGUEZ-PAYAN appears to be much more careful about posting any activity on  
12 his Facebook page: **the target Facebook account**. During this investigation, we located  
13 **the target Facebook account**. Originally, **the target Facebook account** was  
14 subscribed to "Tavito Rodriguez," RODRIGUEZ-PAYAN's known nickname. Multiple  
15 photos of RODRIGUEZ-PAYAN are available on the page, however no criminal or  
16 asset information has been displayed. While multiple photos are displayed for public  
17 viewing, during the investigation a new photo was "posted" for public viewing about  
18 every 1 to 2 months.

19 20. No photos have been posted for public viewing on **the target Facebook**  
20 **account** since August 4, 2017. I believe, after DEA arrested multiple associates of  
21 RODRIGUEZ-PAYAN during September 2017, RODRIGUEZ-PAYAN became more  
22 cautious and stopped posting any photos on his Facebook account so as to not let law  
23 enforcement learn any possible clues about his location or activities. In addition, around  
24 this timeframe, RODRIGUEZ-PAYAN changed the "profile name" on the account to  
25 "Azaeel Medina." I believe this was in an effort to thwart law enforcement for searching  
26 for RODRIGUEZ-PAYAN by simply entering his known nickname in the Facebook  
27 "search bar." In addition I have observed that a photo, (posted on September 30, 2018)

1 on the Facebook profile page of "Carlos Leon" (a "friend" of **the target Facebook**  
2 **account**) was "liked" by **the target Facebook account**. I believe this indicates the  
3 **target Facebook account** has recently been utilized by RODRIGUEZ-PAYAN.

4 21. I believe the Facebook page is still utilized by RODRIGUEZ-PAYAN as  
5 close associates of his (including the suspected mother of his child) are still "friends"  
6 with **the target Facebook account**. Many of these associates, who are still "friends"  
7 with **the target Facebook account** were indicted and convicted in this investigation<sup>5</sup>,  
8 however suspected family members of RODRIGUEZ-PAYAN, whose profiles have  
9 been updated with photos recently publicly, still are "friends" with **the target Facebook**  
10 **account** as well.

11 22. For example, according to information received from the U.S. Department  
12 of State, regarding RODRIGUEZ-PAYAN's Visa application/information,  
13 RODRGUEZ-PAYAN'S mother's name is "Silvia Payan-Leyva." A check of the  
14 "friends" of **the target Facebook account** reveal **the target Facebook account** is  
15 "friends" with "Vanycel Leyva." This account was also changed from the name "Silvia  
16 Payan Leyva" around the time of the DEA takedown of this investigation. The URL  
17 still includes the name "Silvia Payan Leyva" in it. There are various public photos on  
18 the Facebook page of RODRIGUEZ-PAYAN with what appears to be his parents and  
19 siblings. I believe this account is the Facebook page of RODRIGUEZ-PAYAN's  
20 mother. This account was last updated publically on May 2, 2018, and is still "friends"  
21 with **the target Facebook account**. No other "friends" of this account appear to be a  
22 new account for RODRIGUEZ-PAYAN.

23 23. In addition, **the target Facebook account** is also "friends" with an account  
24 named "Gp Rodriguez." This account appears to be the account utilized by the  
25 suspected mother of RODRIGUEZ-PAYAN's child. The child on the account's photos  
26

27 <sup>5</sup> These individuals include Jorge Ulloa-Sarmiento (Facebook profile name of "Jorge Ulloa"),  
28 and Ruelas-Payan (Facebook profile name of "Fran Ruelas Payan") among others.

1 appears to be the same child that RODRIGUEZ-PAYAN has photos of on **the target**  
2 **Facebook account**. In addition, I have observed photos of the female on the "Gp  
3 Rodriguez" account and RODRIGUEZ-PAYAN together. Those photos have since  
4 been removed from public viewing, again I believe as a result of the DEA takedown in  
5 Western Washington. This account was last updated publically on September 23, 2018,  
6 and is still "friends" with **the target Facebook account**. No other "friends" of this  
7 account appear to be a new account for RODRIGUEZ-PAYAN. Based on the above  
8 two examples, in addition to multiple other examples not cited, I believe **the target**  
9 **Facebook account** is still active and being utilized by RODRIGUEZ-PAYAN.

10 24. RODRIGUEZ-PAYAN has been more cautious in this investigation than  
11 other targets. This cautiousness has extended to his reluctance to put his name and/or  
12 identifying information on nearly any documents. It took me multiple months to fully  
13 identify RODRIGUEZ-PAYAN even once I was aware of his nickname and **the target**  
14 **Facebook account**. He was eventually identified through documents he was forced to  
15 put his real name on, such as airline tickets and Department of State information.

16 25. In addition, none of the apartments RODRIGUEZ-PAYAN was found to  
17 reside at during this investigation had leases in his name. Close associates would put  
18 their name on the lease for him, but RODRIGUEZ-PAYAN would in fact live in the  
19 apartment. This also was the case with vehicles utilized by RODRIGUEZ-PAYAN.  
20 Based on my training and experience, traffickers will avoid putting their actual name on  
21 leases and vehicles in an effort to thwart law enforcement.

22 26. Because of RODRIGUEZ-PAYAN being as cautious as he has  
23 demonstrated during this investigation, even more so now that he is a fugitive, I believe  
24 he has kept **the target Facebook account** private in an effort to evade law enforcement  
25 he believes may be watching him. Other members of this DTO have utilized Facebook  
26 to communicate with each other or posted videos publically of their activities so their  
27  
28

1 friends can view it. I believe RODRIGUEZ-PAYAN is likely doing the same thing, but  
2 that we have been unable to view it due to his account being "private."

3 27. Based on my training and experience, traffickers will utilize Facebook and  
4 its messaging service "Facebook Messenger" to communicate with each other as well as  
5 to facilitate their narcotics trafficking activities. At times, even when investigators are  
6 intercepting phone conversations with targets, we will not get all of the communications  
7 of the target due to the target's use of email and third party applications such as  
8 "WhatsApp" and/or Facebook.

9 28. In addition, RODRIGUEZ-PAYAN is a federal fugitive believed to be in  
10 Mexico. Facebook retains Internet Protocol ("IP") logs for a given user ID or IP  
11 address. These logs may contain information about the actions taken by the user ID or  
12 IP address on Facebook, including information about the type of action, the date and  
13 time of the action, and the user ID and IP address associated with the action. For  
14 example, if a user views a Facebook profile, that user's IP log would reflect the fact that  
15 the user viewed the profile, and would show when and from what IP address the user did  
16 so. By following up on the IP address information, an investigator may be able to  
17 determine the physical location that the Facebook user was at when he or she accessed  
18 Facebook via the Internet. This information will be particularly useful for potential  
19 future extradition operations.

## 20 V. BACKGROUND KNOWLEDGE OF FACEBOOK

21 29. Facebook owns and operates a free access social networking website of the  
22 same name that can be accessed at <http://www.facebook.com>. Facebook allows its users  
23 to establish accounts with Facebook, and users can then use their accounts to share  
24 written news, photographs, videos, and other information with other Facebook users, and  
25 sometimes with the general public.

26 30. Facebook asks users to provide basic contact and personal identifying  
27 information to Facebook, either during the registration process or thereafter. This  
28

1 information may include the user's full name, birth date, gender, contact e-mail  
2 addresses, Facebook passwords, Facebook security questions and answers (for password  
3 retrieval), physical address (including city, state, and zip code), telephone numbers,  
4 screen names, websites, and other personal identifiers. Facebook also assigns a user  
5 identification number to each account.

6 31. Facebook users may join one or more groups or networks to connect and  
7 interact with other users who are members of the same group or network. A Facebook  
8 user can also connect directly with individual Facebook users by sending each user a  
9 "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two  
10 users will become "Friends" for purposes of Facebook and can exchange  
11 communications or view information about each other. Each Facebook user's account  
12 includes a list of that user's "Friends" and a "News Feed," which highlights information  
13 about the user's "Friends," such as profile changes, upcoming events, and birthdays.

14 32. Facebook users can select different levels of privacy for the  
15 communications and information associated with their Facebook accounts. By adjusting  
16 these privacy settings, a Facebook user can make information available only to himself or  
17 herself, to particular Facebook users, or to anyone with access to the Internet, including  
18 people who are not Facebook users. A Facebook user can also create "lists" of Facebook  
19 friends to facilitate the application of these privacy settings. Facebook accounts also  
20 include other account settings that users can adjust to control, for example, the types of  
21 notifications they receive from Facebook.

22 33. Facebook users can create profiles that include photographs, lists of  
23 personal interests, and other information. Facebook users can also post "status" updates  
24 about their whereabouts and actions, as well as links to videos, photographs, articles, and  
25 other items available elsewhere on the Internet. Facebook users can also post information  
26 about upcoming "events," such as social occasions, by listing the event's time, location,  
27 host, and guest list. In addition, Facebook users can "check in" to particular locations or



1 add their geographic locations to their Facebook posts, thereby revealing their geographic  
2 locations at particular dates and times. A particular user's profile page also includes a  
3 "Wall," which is a space where the user and his or her "Friends" can post messages,  
4 attachments, and links that will typically be visible to anyone who can view the user's  
5 profile.

6 34. Facebook has a Photos application, where users can upload an unlimited  
7 number of albums and photos. For Facebook's purposes, a user's "Photoprint" includes  
8 all photos uploaded by that user that have not been deleted and other items.

9 35. Facebook users can exchange private messages on Facebook with other  
10 users. These messages, which are similar to e-mail messages, are sent to the recipient's  
11 "Inbox" on Facebook, which also stores copies of messages sent by the recipient, as well  
12 as other information. Facebook users can also post comments on the Facebook profiles  
13 of other users or on their own profiles; such comments are typically associated with a  
14 specific posting or item on the profile. In addition, Facebook has a "Chat" feature that  
15 allows users to send and receive instant messages through Facebook. These chat  
16 communications are stored in the chat history for the account. Facebook also has a Video  
17 Calling feature, and although Facebook does not record the calls themselves, it does keep  
18 records of the date of each call.

19 36. If a Facebook user does not want to interact with another user on Facebook,  
20 the first user can "block" the second user from seeing his or her account.

21 37. Facebook has a "like" feature that allows users to give positive feedback or  
22 connect to particular pages. Facebook users can "like" Facebook posts or updates, as  
23 well as webpages or content on third party (i.e., non Facebook) websites. Facebook users  
24 can also become "fans" of particular Facebook pages.

25 38. Facebook has a search function that enables its users to search Facebook for  
26 keywords, usernames, or pages, among other things.

1        39. Each Facebook account has an activity log, which is a list of the user's  
2 posts and other Facebook activities from the inception of the account to the present. The  
3 activity log includes stories and photos that the user has been tagged in, as well as  
4 connections made through the account, such as "liking" a Facebook page or adding  
5 someone as a friend. The activity log is visible to the user but cannot be viewed by  
6 people who visit the user's Facebook page.

7        40. Facebook Notes is a blogging feature available to Facebook users, and it  
8 enables users to write and post notes or personal web logs ("blogs"), or to import their  
9 blogs from other services, such as Xanga, LiveJournal, and Blogger.

10       41. The Facebook Gifts feature allows users to send virtual "gifts" to their  
11 friends that appear as icons on the recipient's profile page. Gifts cost money to purchase,  
12 and a personalized message can be attached to each gift. Facebook users can also send  
13 each other "pokes," which are free and simply result in a notification to the recipient that  
14 he or she has been "poked" by the sender.

15       42. Facebook also has a Marketplace feature, which allows users to post free  
16 classified ads. Users can post items for sale, housing, jobs, and other items on the  
17 Marketplace.

18       43. In addition to the applications described above, Facebook also provides its  
19 users with access to thousands of other applications on the Facebook platform. When a  
20 Facebook user accesses or uses one of these applications, an update about that the user's  
21 access or use of that application may appear on the user's profile page.

22       44. Facebook uses the term "Neoprint" to describe an expanded view of a given  
23 user profile. The "Neoprint" for a given user can include the following information from  
24 the user's profile: profile contact information; News Feed information; status updates;  
25 links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists,  
26 including the friends' Facebook user identification numbers; groups and networks of  
27 which the user is a member, including the groups' Facebook group identification

1 numbers; future and past event postings; rejected "Friend" requests; comments; gifts;  
2 pokes; tags; and information about the user's access and use of Facebook applications.

3 45. Social networking providers like Facebook typically retain additional  
4 information about their users' accounts, such as information about the length of service  
5 (including start date), the types of service utilized, and the means and source of any  
6 payments associated with the service (including any credit card or bank account number).  
7 In some cases, Facebook users may communicate directly with Facebook about issues  
8 relating to their accounts, such as technical problems, billing inquiries, or complaints  
9 from other users. Social networking providers like Facebook typically retain records  
10 about such communications, including records of contacts between the user and the  
11 provider's support services, as well as records of any actions taken by the provider or  
12 user as a result of the communications.

13 46. Therefore, the computers of Facebook are likely to contain all the material  
14 described above, including stored electronic communications and information concerning  
15 subscribers and their use of Facebook, such as account access information, transaction  
16 information, and other account information.

## 17 VI. PAST EFFORTS TO OBTAIN THIS EVIDENCE

18 47. This evidence has not been previously available to me or other agents.

## 19 VII. PROTOCOL FOR SORTING SEIZABLE ELECTRONICALLY 20 STORED INFORMATION

21 48. In order to ensure that agents are limited in their search only to the account  
22 specifically sought; in order to protect the privacy interests of other third parties who  
23 have accounts at Facebook (the "Provider"); and in order to minimize disruptions to  
24 normal business operations of the Provider; this application seeks authorization to permit  
25 agents and employees of the Provider to assist in the execution of the warrants, as  
26 follows: (See: Title 18, United States Code, Section 2703(g)).  
27  
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49. The search warrants will be presented to the Provider, with direction that they identify and isolate the account and associated records described in Section I of Attachment B.

50. The Provider will also be directed to create an exact duplicate in electronic form of the account and records specified in Section I of Attachment B.

51. The Provider shall then provide exact digital copies of the content of the subject account, as well as all other records associated with the account, to me, or to any other agent of the DEA. Once the digital copies have been received from the Provider, that copy will, in turn, be forensically imaged and only that image will be reviewed and analyzed to identify communications and other data subject to seizure pursuant to Section II of Attachment B. The original digital copies will be sealed and maintained to establish authenticity, if necessary.

52. I, and/or other agents of the DEA will thereafter review the forensic images, and identify from among that content those items that come within the items identified in Section II to Attachment B, for seizure. I, and/or other agents of the DEA will then copy those items identified for seizure to separate media for future use in the investigation and prosecution. The forensic copy of the complete content of the account will also then be sealed and retained by the DEA, and will not be unsealed absent authorization of a Magistrate Judge of this Court, except for the purpose of duplication of the entire image in order to provide it, as discovery, to a charged defendant.

53. Analyzing the data contained in the forensic image may require special technical skills, equipment, and software. It could also be very time-consuming. Searching by keywords, for example, can yield thousands of "hits," each of which must then be reviewed in context by the examiner to determine whether the data is within the scope of the warrant. Merely finding a relevant "hit" does not end the review process. Keywords used originally need to be modified continuously, based on interim results. Certain file formats, moreover, do not lend themselves to keyword searches, as keywords

1 search text, and many common electronic mail, database, and spreadsheet applications,  
2 do not store data as searchable text. The data is saved, instead, in proprietary non-text  
3 format. And, as the volume of storage allotted by service providers increases, the time it  
4 takes to properly analyze recovered data increases, as well. Consistent with the  
5 foregoing, searching the recovered data for the information subject to seizure pursuant to  
6 this warrant may require a range of data analysis techniques and may take weeks or even  
7 months.

8       54. Based upon my experience and training, and the experience and training of  
9 other agents with whom I have communicated, it is necessary to review and seize all  
10 material that identify any users of the subject account and any material that provides  
11 context to the incriminating communications.

12       55. All forensic analysis of the image data will employ only those search  
13 protocols and methodologies reasonably designed to identify and seize the items  
14 identified in Section II of Attachment B to the warrant.

15       56. Records and files that could otherwise be obtained by subpoena shall  
16 remain available, in their entirety, to investigating agents and prosecutors for the duration  
17 of the investigation and prosecution. These include the name and address of the  
18 subscriber to or customer of the service; local and long distance telephone connection  
19 records; records of session times and durations; length of service and types of services  
20 utilized; telephone or instrument number or other subscriber number or identity,  
21 including any temporarily assigned network address; and means and source of payment,  
22 including any credit card and bank account numbers.

23       57. If in the course of their efforts to identify and segregate evidence of the  
24 items specified in Section II to Attachment B, law enforcement agents or analysts  
25 discover items outside of the scope of the warrant that are evidence of other crimes, that  
26 data/evidence will not be used in any way unless it is first presented to a Magistrate Judge  
27 of this District and a new warrant is obtained to seize that data, and/or to search for other

1 evidence related to it. In the event a new warrant is authorized, the government may  
2 make use of the data then seized in any lawful manner.

### 3 **VIII. REQUEST FOR NON-DISCLOSURE AND SEALING**

4 58. The government requests, pursuant to the preclusion of notice provisions of  
5 Title 18, United States Code, Section 2705(b), that the Provider be ordered not to notify  
6 any person (including the subscriber or customer to which the materials relate) of the  
7 existence of this warrant for such period as the Court deems appropriate. The  
8 government submits that such an order is justified because notification of the existence of  
9 this Order would seriously jeopardize the ongoing investigation. Such a disclosure would  
10 give the subscriber an opportunity to destroy evidence, change patterns of behavior,  
11 notify confederates, or flee or continue his flight from prosecution.

12 59. It is further respectfully requested that this Court issue an order sealing,  
13 until further order of the Court, all papers submitted in support of this application,  
14 including the application and search warrant. This is an ongoing investigation, and the  
15 targets do not know the details of what investigators have learned and what evidence has  
16 been gathered. Premature disclosure of the contents of this affidavit and related  
17 documents may have a significant and negative impact on the continuing investigation  
18 and may severely jeopardize its effectiveness by resulting in the flight of targets, the  
19 destruction of evidence, or the intimidation or influencing of witnesses.

### 20 **IX. CONCLUSION**

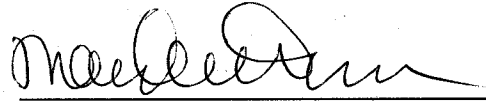
21 60. Based on the forgoing, I request that the Court issue the proposed search  
22 warrant. This Court has jurisdiction to issue the requested warrant because it is "a court  
23 of competent jurisdiction" as defined by 18 U.S.C. § 2711, 18 U.S.C. §§ 2703(a),  
24 (b)(1)(A) & (c)(1)(A). Pursuant to 18 U.S.C. § 2703(g), the presence of a law  
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26  
27  
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1 enforcement officer is not required for the service or execution of this warrant.  
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GEOFFREY PROVENZALE, Affiant  
Special Agent, DEA  
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8 SUBSCRIBED AND SWORN before me this 23 day of October, 2018  
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HON. MARY ALICE THEILER  
United States Magistrate Judge  
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**ATTACHMENT A**

**Property to Be Searched**

1. This warrant applies to information associated with the following Facebook user  
ID numbers: 100002599842950; and/or  
URL: <https://www.facebook.com/jesusoctavio.rodriguezpayan1>; that is stored at a  
premises owned, maintained, controlled, or operated by Facebook, a social networking  
company headquartered in Menlo Park, California.

**ATTACHMENT B**

**Particular Things to be Seized**

**I. Information to be disclosed by Facebook**

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each user ID listed in Attachment A:

(a) All contact and personal identifying information, including full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.

(b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities;

(c) All Photoprints;

(d) All Neoprints, including profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;

(e) All other records of communications and messages made or received by the user, including all private messages, chat history, video calling history, and pending Friend requests;

(f) All check-ins and other location information;

(g) All IP logs, including all records of the IP addresses that logged into the account;

(h) All records of the account's usage of the "like" feature, including all Facebook posts and all non-Facebook webpages and content that the user has liked;

(i) All information about the Facebook pages that the account is or was a "fan" of;

(j) All past and present lists of friends created by the account;

(k) All records of Facebook searches performed by the account;

(l) All information about the user's access and use of Facebook Marketplace;

(m) The length of service (including start date), the types of service utilized by the user, and the means and source of any payments associated with the service (including any credit card or bank account number);

(n) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account; and

(o) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

II. Information to be seized by the government

All information described above in Section I that constitutes evidence, fruits or instrumentalities of the crimes of Distribution of controlled substances, and conspiracy, in violation of 21 U.S.C. §§ 841(a)(1) and 846; (with respect to JESUS RODRIGUEZ-PAYAN); as well as all information relevant to the location of the fugitive JESUS RODRIGUEZ-PAYAN, including:

(a) any and all Wall Posts, private messages, status updates, chat history, friend requests, postings, photographs, or any other information, records, or other material or

1 information that relates to drug trafficking, or activity related to or in furtherance of drug  
2 trafficking;

3 (b) any and all IP logs, including all records of the IP addresses that logged  
4 into the account, and the dates and times such logins occurred, as well as any other  
5 connection information;

6 (c) records relating to who created, used, or communicated with the user ID,  
7 including records about their identities and whereabouts;

8 (d) financial records and information, including but not limited to money  
9 transfers or wires to Mexico;

10 (f) information identifying the names, location, or other contact information of  
11 people in contact with suspected drug traffickers;

12 (g) any information, records, or other material relevant to firearm possession of  
13 trafficking by JESUS RODRIGUEZ-PAYAN; and

14 (h) any information, records, or other material relevant to the whereabouts of  
15 JESUS RODRIGUEZ-PAYAN.